

2000 No. 640 (L.3)

**FAMILY PROCEEDINGS, ENGLAND AND WALES
SUPREME COURT OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES**

The Family Proceedings Fees (Amendment) Order 2000

Made - - - *7th March 2000*

Laid before Parliament *8th March 2000*

Coming into force in accordance with article 2

The Lord Chancellor, in exercise of the powers conferred on him by section 41 of the Matrimonial and Family Proceedings Act 1984(a), section 415 of the Insolvency Act 1986(b), and section 128 of the Finance Act 1990(c), with the concurrence of the Treasury under section 41 of the Matrimonial and Family Proceedings Act 1984, and with the sanction of the Treasury under section 415(1) of the Insolvency Act 1986, makes the following Order:

Citation and interpretation

- 1.—(1) This Order may be cited as the Family Proceedings Fees (Amendment) Order 2000.
- (2) In this Order—
- (a) “the 1999 Fees Order” means the Family Proceedings Fees Order 1999(d);
 - (b) “the appointed day” means the day when sections 1 to 11 of the Access to Justice Act 1999(e) come into force;
 - (c) an article referred to by number alone is a reference to the article so numbered in the 1999 Fees Order; and
 - (d) a fee or column referred to by number means the fee or column so numbered in Schedule 1 to the 1999 Fees Order.

Commencement

2. This Order shall come into force—
- (a) for the purposes of articles 1 and 2 of this Order, on the appointed day, or, on 25th April 2000, whichever is the earlier;
 - (b) for the purposes of articles 3, 4 and 6 of this Order on the appointed day;
 - (c) otherwise, on 25th April 2000.

Amendments to the 1999 Fees Order

3. In article 2, after paragraph (c) the following new paragraphs (d) and (e) shall be added—
- “(d) “LSC” means the Legal Services Commission established under section 1 of the Access to Justice Act 1999;
 - (e) “Funding Code” means the code approved under section 9 of the Access to Justice Act 1999.”.

(a) 1984 c. 42.

(b) 1986 c. 45.

(c) 1990 c. 29.

(d) S.I. 1999/690; amended by S.I. 1999/2549.

(e) 1999 c. 22. Sections 1 to 11 come into force on such day as the Lord Chancellor may by order appoint.

4. For paragraphs (a) and (b) of article 4(1) there shall be substituted—
- “(a) is in receipt of—
- (i) legal advice and assistance under Part II or Part III of the Legal Aid Act 1988(a) in connection with the matter to which the proceedings relate; or
 - (ii) Legal Help as defined in, and provided in accordance with, the Funding Code in connection with the matter to which the proceedings relate, or
- (b) is in receipt of any qualifying benefit and is not in receipt of either—
- (i) representation under Part IV of the Legal Aid Act 1988 for the purposes of the proceedings; or
 - (ii) funding provided by the LSC for the purposes of the proceedings and for which a certificate has been issued under the Funding Code certifying a decision to fund services for that party, or”.

5. After article 5 there shall be inserted the following new article—

“**5A.**—(1) Subject to paragraph (2), where a fee has been paid at a time—

 - (a) when, under article 4, it was not payable, the fee shall be refunded;
 - (b) where the Lord Chancellor, if he had been aware of all the circumstances, would have reduced the fee under article 5, the amount by which the fee would have been reduced shall be refunded; and
 - (c) where the Lord Chancellor, if he had been aware of all the circumstances, would have remitted the fee under article 5, the fee shall be refunded.

(2) No refund shall be made under paragraph (1) unless the party who paid the fee applies within 6 months of paying the fee.

(3) The Lord Chancellor may extend the period of 6 months referred to in paragraph (2) if he considers that there is good reason for an application being made after the end of the period of 6 months.”.

6. Fee 8 shall be amended as follows—

 - (a) in column 1 in fee 8.1 for the note beginning with the words “Where there is a combined party and party and legal aid determination of costs” and ending with the words “amount allowed.” there shall be substituted the following note—

“Where there is a combined party and party and legal aid, or a combined party and party and LSC, or a combined party and party, legal aid and LSC determination of costs, fee 8.1 shall be attributed proportionately to the party and party, legal aid, or LSC (as the case may be) portions of the bill on the basis of the amount allowed.”;
 - (b) in column 1 in fee 8.3 for the words “Legal Aid Assessment Certificate” there shall be substituted the words “certificate of costs payable from the Community Legal Service Fund”; and
 - (c) in column 1 in the note following the description of fee 8.3 for the words “Legal Aid Fund” there shall be substituted the words “Community Legal Service Fund”.

7. Fee 10 shall be omitted.

Dated 29th February 2000

Irvine of Lairg, C.

We concur,

*Bob Ainsworth
Greg Pope*

Dated 7th March 2000

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 1988 c. 34. Parts II, III and IV are repealed by Schedule 15 to the Access to Justice Act 1999 (c. 22). The part of Schedule 15 that repeals Parts II, III and IV comes into force on such day as the Lord Chancellor may by order appoint.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Family Proceedings Fees Order 1999 as follows:

- refunds are permitted in certain cases (*article 5*);
- references to legal aid are amended to take account of the establishment of the Legal Services Commission under section 1 of the Access to Justice Act 1999 (*articles 3, 4 and 6*); and
- an unnecessary fee is removed (*article 7*).

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£1.50

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E 0542 03/00 ON (MFK)